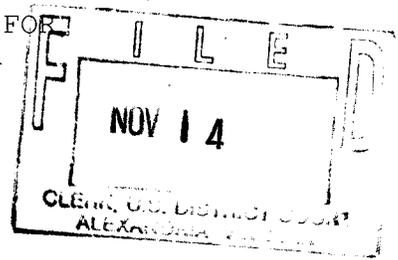


IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division



UNITED STATES OF AMERICA )  
 )  
 v. ) 1:01cr455  
 )  
 ZACARIAS MOUSSAOUI, )  
 a/k/a "Shaqil," )  
 a/k/a "Abu Khalid )  
 al Sahrawi," )  
 )  
 Defendant. )

Order

For the reasons stated on the record during a sealed hearing held on November 14, 2005, at which the defendant was not present, the Defendant's Motion for a Separate Hearing as to the Threshold Factor and Motion in Limine (Docket #1337) is GRANTED, and it is hereby

ORDERED that the penalty trial will be conducted in two phases. The first phase will deal solely with the gateway threshold factor required under 18 U.S.C. § 3591(a)(2). The government has agreed that the sole gateway factor upon which it is pursuing the death penalty is that the defendant "intentionally participated in an act [lying to agents about his knowledge concerning September 11], contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct

result of the act," in violation of 18 U.S.C. § 3591(a)(2)(C). If the jury finds that the government has proven this factor beyond a reasonable doubt, the trial will proceed to the last phase during which the jury will have to determine whether the government has proven any of the aggravating factors alleged in the indictment as well as whether there are any mitigating factors, and then select the penalty.

Victim testimony and specific evidence concerning the details of the events of September 11 are not relevant to the first phase. Accordingly, the Defendant's Motion in Limine is GRANTED.

Given the structure of the trial, the Government's Motion to Use Summary Witness Regarding World Trade Center Attacks (Docket #397) and the Government's Motion for Protective Order Regarding Cockpit Voice Recorders Pursuant to 49 U.S.C. § 1154 (Docket #399), which only apply to the second phase of the trial, will be held in abeyance, with the parties encouraged to work out stipulations that might avoid the need for this evidence.

As to the Defendant's Motion to Reconsider Court's Order of June 25, 2002 Granting the Government's Motion to Withhold Places of Abode of Prospective Witnesses (Docket #1328), for the reasons stated during the hearing, the Motion is GRANTED IN PART, and DENIED IN PART, and it is hereby

ORDERED that the government produce the business addresses

of government witnesses, and the home addresses of civilians whom it intends to call as witnesses for the trial. The defense request for the witnesses' phone numbers is DENIED, and it is further

ORDERED that this information will only be provided to two specified defense counsel and two defense support staff, who must be identified to the government and the Court and who must maintain the information under seal.

The Clerk is directed to forward copies of this Order to counsel of record and to the Court Security Officer.

Entered this 14th day of November, 2005.

/s/

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Leonie M. Brinkema  
United States District Judge

Alexandria, Virginia